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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,846	02/18/2004	Shaun Thomas Broering	9527L	2517

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Intellectual Property Division  
Winton Hill Technical Center-Box 161  
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EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/780,846

Applicant(s)

BROERING ET AL.

Examiner

Jessica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/18/04, 10/12/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 12, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bustin (GB 1301198, listed in IDS).

With respect to claim 1, Bustin teaches a method of making an article (flexible bag) having elastic-like behavior by introducing a sheet material 10 having at least one overlapped portion, forming said overlapped portion of sheet material into a strainable network including a plurality of first regions and a plurality of second regions, said first regions being substantially un-deformed and said second regions being formed into disengagable pleat elements (sheet passes between embossing rollers 25, 26 to form deformations/pleats), and disengaging said pleat elements using a disengaging means (introduces air between overlapped portion of sheet to separate the same). See Figures 1-6, p. 1 lines 11-18, p. 2 lines 5-15 and 115-117, p. 3 lines 10-40.

Regarding claim 3, Bustin teaches overlapping one portion of sheet material over another portion of sheet material (Figure 6).

Regarding claim 12, Bustin teaches winding the sheet of material onto a roll (Figure 6; p. 3 lines 38-39).

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Regarding claim 14, Bustin teaches unwinding a continuous web of sheet material from a roll (Figure 5; p. 3 lines 127-130).

Regarding claim 15, Bustin teaches such (Figure 6; p. 3 lines 10-13).

Regarding claim 16, Bustin teaches forming flexible bags from the sheet material (Figure 5; p. 1 lines 15-18).

Regarding claim 18, Bustin teaches such (p. 3 lines 35-38 and 125-126).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4, 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bustin as applied to claim 1 above and further in view of Cronauer (US 5709069).

Regarding claim 2, Bustin teaches disengaging the pleat elements by inflation (p. 3 lines 30- 33) but it is unclear as to how Bustin introduces the air between the pleats. It would have been obvious to use an air knife to introduce the air because such is used in the art to deliver air, which separates the front and back walls of a flexible bag to thereby open the same, as by Cronauer (column 1, lines 14-15; column 2, lines 54-57; column 5, lines 6-9).

Regarding claim 4, Bustin teaches such.

Regarding claim 10, Bustin teaches forming the pleats using embossing rollers 25, 26 (p. 3 lines 71-93).

Regarding claim 20, all the limitations were addressed with respect to claims 1 and 2.

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5. Claims 2, 4-9, 10-11, 17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bustin as applied to claim 1 above and further in view of Rowe et al. (US 2615375, listed in IDS), or LaFleur et al. (US 4481006, listed in IDS), or Yisha et al. (US 5956929), or the collective teachings of and Hiramoto et al. (US 6446684) and Henaux (US 5845463) and Adelmann (US 5564252) and Muller (US 5279095).

Regarding claims 2, 5-9 and 11, one of ordinary skill in the art reading Bustin as a whole would have readily appreciated that the reference is not concerned with a particular method/device for disengaging the pleats. Therefore, it would have been obvious to one of ordinary skill in the art to use other methods/devices, such as those being claimed by Applicant, as an alternative to inflation since such alternatives are well known in the flexible bag art and only the expected results would have been achieved – Rowe teaches making flexible bag where pleats formed in bag and then pleats separated by variety of methods/devices including inflation (Figure 1; column 3, lines 35-36), a static opening bar (Figure 5; column 4, lines 30-34), and a dynamic opening bar (Figures 9-13 and 16; column 4, lines 60-75; column 5, lines 43-47 and 55-67); LaFleur teaches opening a flexible bag using a dynamic opening bar (Figure 1; column 1, lines 4-12; column 2, line 48 – column 3, line 3); Yisha teaches opening a flexible bag using a stationary opening bar (Figures 1-2; abstract; column 2, lines 48-65); collective teachings of Hiramoto (column 1, lines 8-15; column 3, lines 39-43), Henaux (Figure 1; column 2, lines 22-24), Adelmann (column 5, lines 50-65) and Muller (abstract; column 1, lines 14-16; column 2, lines 6-40; column 3, lines 38-42) teach opening a flexible bag using suction/vacuum.

Regarding claim 17, Bustin teaches sealing at least one edge of the flexible bag (p. 3 lines 35-36). It would have been obvious to sever the sheet material across a width of the sealed edge

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to separate the sheet material into individual flexible bags because such is known in the art, as taught by Yisha (column 4, lines 34-40; column 5, lines 40-45).

Regarding claim 19, it would have been obvious to interleave the severed (claim 17) or perforated (claim 18) bags of Bustin because such is well known and conventional in the flexible bag art when storing/shipping the bags.

Regarding claims 4, 10 and 20, please see paragraph 4 above.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bustin as applied to claim 1 above, and further in view of Meyer et al. (US 6394652, listed on IDS).

Regarding claim 13, it would have been obvious to incorporate a closure means into the sheet material of Bustin because such is known in the flexible bag making art, as taught by Meyers (column 2, lines 32-35; column 11, lines 28-38).

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JESSICA ROSSI**  
**PRIMARY EXAMINER**

A handwritten signature in cursive script, appearing to read 'Jessica Rossi', located below the printed name and title.